

**REMARKS**

**INTRODUCTION:**

In accordance with the foregoing, claims 35-37, 53-55, and 57 have been canceled without prejudice or disclaimer. No new matter is being presented, and approval and entry are respectfully requested.

Claims 1, 5-34, 38-52, and 56 are pending and under consideration. Claims 25, 28-30, 43-47, and 56 stand allowed and claims 1, 5-24, 26, 27, and 31-34 stand rejected. Reconsideration is requested.

**ENTRY OF AMENDMENT UNDER 37 C.F.R. § 1.116:**

Applicant requests entry of this Rule 116 Response because rejected claims 35-37, 53-55, and 57 have been cancelled.

The Manual of Patent Examining Procedures sets forth in Section 714.12 that "any amendment that would place the case either in condition for allowance or in better form for appeal may be entered." Moreover, Section 714.13 sets forth that "the Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

**REJECTION UNDER 35 U.S.C. § 102:**

On page 2 of the Office Action, claims 1, 7-8, 10-11, 24, 31, 33, 38-39, and 42 were rejected under 35 U.S.C. § 102 in view of U.S. Patent No. 6,222,815 to Nagano ("Nagano"). The rejection is traversed and reconsideration is requested.

Nagano generally describes a sample and hold circuit sampling and holding levels of a reflection signal, representative of a reflection of the recording light beam from the optical disk, for a predetermined time period between points of 1T and 3Ts after the start of a rising edge of the reflection signal. See abstract.

In Nagano, a pit is formed by radiating a laser signal on a disc and information recorded in the pit is read using the optical pickup 3. The level of a signal read is detected to control a recording power. Unlike independent claims 1 and 38, Nagano fails to teach or suggest,

“controlling the power level of the laser diode according to the average compared result,” where the average compared result is based on “sampling the difference between the level of the laser light and the reference level” and “calculating an average of a predetermined number of the sampled difference to produce,” as recited in independent claims 1 and 38.

Also, because the pit is formed and then information therein is reproduced, Nagano relates only to a recording operation and, thus, cannot be applied to an erasing operation or a reproduction operation. Accordingly, it is respectfully requested that independent claims 1 and 38 and related dependent claims be allowed.

**REJECTION UNDER 35 U.S.C. § 103:**

**On page 5 of the Office Action, claims 5-6, 22, 27, 32, 34, 36-37, 41, 48, 50, and 54-55 were rejected under 35 U.S.C. § 103 in view of Nagano and U.S. Patent No. 5,414,692 to Aoki (“Aoki”). The rejection is traversed and reconsideration is requested.**

Claims 5-6, 22, 27, 32, and 34 depend from independent claim 1 and claims 41, 48, and 50 depend from independent claim 38. Accordingly, the arguments presented above supporting the patentability of independent claims 1 and 38 in view of Nagano are incorporated herein. Referring to Aoki, this reference describes an area FLAG which shows a flag region indicating that a write-in has been performed. An area ALPC (Auto Laser Power Control) shows a blank region, which is a test section for controlling the power level of a laser beam source. See column 1, lines 40-53. However, similarly to Nagano, Aoki is silent as to teaching or suggesting, “controlling the power level of the laser diode according to the average compared result,” where the average compared result is based on “sampling the difference between the level of the laser light and the reference level” and “calculating an average of a predetermined number of the sampled difference to produce,” as recited in independent claims 1 and 38. Accordingly, it is respectfully requested that independent claims 1 and 38 and related dependent claims be allowed.

**On page 7 of the Office Action, claims 12-21, 26, 40, 49, and 51 were rejected under 35 U.S.C. § 103 in view of Nagano and U.S. Patent No. 5,146,240 to Hayashi (“Hayashi”). The rejection is traversed and reconsideration is requested.**

Claims 20-21 and 26 depend from independent claim 12 and claims 40, 49, and 51 depend from independent claim 38. The Office Action refers to the description provided above of Nagano as describing the claimed features of the photo diode, and the comparator recited in independent claim 12. However, Applicant respectfully disagrees to such assertion. In particular, Nagano is related to a detection of a level of a laser signal reflected from a disc, that

is, a detection of an RF signal, which is different from the present application in which the feedback signal of the photodiode. Nagano fails to teach or suggest, "a photo diode which receives the laser light reflected by the disc to generate a current signal corresponding to a level of power of the reflected laser light; a comparator which outputs an output voltage corresponding to the current signal from the photo diode compares the output voltage with a reference voltage and outputs a binary decision signal which indicates which of the output voltage and the reference voltage is higher," as recited in independent claim 12.

Hayashi provides a comparator 16 comparing a voltage  $V_m$  from the photodetector with a predetermined reference voltage  $V_{ref1}$ , and supplying a signal to the up/down counter 17 and to the end signal generator 20. See column 5, line 10, to column 6, line 12 of Hayashi. When the voltage  $V_m$  from the amplifier 15 is lower than the reference voltage  $V_{ref1}$  ( $V_m < V_{ref1}$ ), the signal supplied from the comparator 16 changes to a low level, and this low-level signal is supplied to a terminal (U/D) of the up/down counter 17. See column 5, lines 28-49 of Hayashi. However, similarly to Nagano, Hayashi is silent as to teaching or suggesting of a detection of an RF signal, which is different from the present application in which the feedback signal of the photodiode. Hayashi fails to teach or suggest, "a photo diode which receives the laser light reflected by the disc to generate a current signal corresponding to a level of power of the reflected laser light; a comparator which outputs an output voltage corresponding to the current signal from the photo diode compares the output voltage with a reference voltage and outputs a binary decision signal which indicates which of the output voltage and the reference voltage is higher," as recited in independent claim 12. Further, similarly to Nagano, Hayashi is silent as to teaching or suggesting, "controlling the power level of the laser diode according to the average compared result," where the average compared result is based on "sampling the difference between the level of the laser light and the reference level" and "calculating an average of a predetermined number of the sampled difference to produce," as recited in independent claims 1 and 38.

Accordingly, it is respectfully requested that independent claims 12 and 38 and related dependent claims be allowed.

**In addition, on page 10 of the Office Action, claims 23 and 57 were rejected under 35 U.S.C. § 103 in view of Nagano, Hayashi, and Aoki. The rejection is traversed and reconsideration is requested.**

Because independent claim 57 has been cancelled, the rejection to this claim is rendered moot. Because dependent claim 23 depends from claim 1, the combination of the cited references must teach all the claimed features recited in independent claim 1. Thus, the

arguments present above supporting the patentability of independent claim 1 in view of the cited references are incorporated herein.

**CONCLUSION:**

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited. At a minimum, this Amendment should be entered at least for purposes of Appeal as it either clarifies and/or narrows the issues for consideration by the Board.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited and possibly concluded by the Examiner contacting the undersigned attorney for a telephone interview to discuss any such remaining issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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